

Introduced by Senator Speier

August 15, 2005

Senate Constitutional Amendment No. 17—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 14 of Article V thereof, relating to state officers.

LEGISLATIVE COUNSEL'S DIGEST

SCA 17, as introduced, Speier. State officers: outside income.

The California Constitution prohibits a state officer from accepting any honorarium and from receiving earned income from certain persons. For this purpose, “state officer” means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, or a member of the State Board of Equalization. Existing statutory provisions prohibit a state or local public official from making, participating in making, or in any way attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

This measure would amend the California Constitution to prohibit a state officer, as identified above, from providing services under contract or otherwise accepting employment, other than performing the duties of his or her state office for compensation or other payment from the state, in exchange for compensation or other valuable consideration to that state officer or to any other party or entity.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2005-06 Regular
3 Session, commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 That Section 14 of Article V thereof is amended to read:

8 SEC. 14. (a) To eliminate any appearance of a conflict with
9 the proper discharge of his or her duties and responsibilities, no
10 state officer may knowingly receive any salary, wages,
11 commissions, or other similar earned income from a lobbyist or
12 lobbying firm, as defined by the Political Reform Act of 1974, or
13 from a person who, during the previous 12 months, has been
14 under a contract with the state agency under the jurisdiction of
15 the state officer. The Legislature shall enact laws that define
16 earned income. However, earned income does not include any
17 community property interest in the income of a spouse. Any state
18 officer who knowingly receives any salary, wages, commissions,
19 or other similar earned income from a lobbyist employer, as
20 defined by the Political Reform Act of 1974, may not, for a
21 period of one year following its receipt, vote upon or make,
22 participate in making, or in any way attempt to use his or her
23 official position to influence an action or decision before the
24 agency for which the state officer serves, other than an action or
25 decision involving a bill described in subdivision (c) of Section
26 12 of Article IV, which he or she knows, or has reason to know,
27 would have a direct and significant financial impact on the
28 lobbyist employer and would not impact the public generally or a
29 significant segment of the public in a similar manner. As used in
30 this subdivision, "public generally" includes an industry, trade, or
31 profession.

32 (b) No state officer may accept any honorarium. The
33 Legislature shall enact laws that implement this subdivision.

34 (c) The Legislature shall enact laws that ban or strictly limit
35 the acceptance of a gift by a state officer from any source if the
36 acceptance of the gift might create a conflict of interest.

37 (d) No state officer may knowingly accept any compensation
38 for appearing, agreeing to appear, or taking any other action on
39 behalf of another person before any state government board or
40 agency. If a state officer knowingly accepts any compensation

1 for appearing, agreeing to appear, or taking any other action on
2 behalf of another person before any local government board or
3 agency, the state officer may not, for a period of one year
4 following the acceptance of the compensation, make, participate
5 in making, or in any way attempt to use his or her official
6 position to influence an action or decision before the state agency
7 for which the state officer serves, other than an action or decision
8 involving a bill described in subdivision (c) of Section 12 of
9 Article IV, which he or she knows, or has reason to know, would
10 have a direct and significant financial impact on that person and
11 would not impact the public generally or a significant segment of
12 the public in a similar manner. As used in this subdivision,
13 “public generally” includes an industry, trade, or profession.
14 However, a state officer may engage in activities involving a
15 board or agency which are strictly on his or her own behalf,
16 appear in the capacity of an attorney before any court or the
17 Workers’ Compensation Appeals Board, or act as an advocate
18 without compensation or make an inquiry for information on
19 behalf of a person before a board or agency. This subdivision
20 does not prohibit any action of a partnership or firm of which the
21 state officer is a member if the state officer does not share
22 directly or indirectly in the fee, less any expenses attributable to
23 that fee, resulting from that action.

24 (e) The Legislature shall enact laws that prohibit a state
25 officer, or a secretary of an agency or director of a department
26 appointed by the Governor, who has not resigned or retired from
27 state service prior to January 7, 1991, from lobbying, for
28 compensation, as governed by the Political Reform Act of 1974,
29 before the executive branch of state government for 12 months
30 after leaving office.

31 (f) *Except for performing the duties of his or her office in*
32 *exchange for compensation or other payment from the State, a*
33 *state officer shall not provide services under contract or*
34 *otherwise accept employment in exchange for compensation or*
35 *other valuable consideration to that state officer or to any other*
36 *party or entity.*

37 (f)

38 (g) “State officer,” as used in this section, means the
39 Governor, Lieutenant Governor, Attorney General, Controller,
40 Insurance Commissioner, Secretary of State, Superintendent of

- 1 Public Instruction, Treasurer, and member of the State Board of
- 2 Equalization.

O